

Appln No. 10/813,891

Reply to Office Action dated February 2, 2006

### REMARKS

In the Office Action, the Examiner noted that claims 1-24 are withdrawn as directed to a non-elected species, that Claims 25-29 are pending in the application, and that claims 25-29 are rejected.

By this response, claims 25-29 are canceled and replaced by new Claim 30.

In view of the above amendments with new method claim 30, and the following discussion, Applicant submits that none of the claims presently in the application are anticipated under the respective provisions of 35 U.S.C. §§ 102. Thus, the Applicant believes that all of these claims are now in allowable form.

### REJECTION OF CLAIMS UNDER 35 U.S.C. §102

The Examiner rejected, under 35 U.S.C. §102(b), claims 25-29 as being anticipated by Putz (U.S. Patent Publication number 2002/0117556, published August 29, 2002). In view of the new Claim 30, the Applicant traverses the rejections.

Putz discloses a necklace 20 or 820 having a pendant 24 or 824 with a fragrance emitting member 22 or 822 suspended from necklace chain 28 or 828.

Putz also discloses a fragrance emitting hairpiece 140 in the form of a barrette. As to applicant's recitation that the necklace and headband piece can be worn as either a necklace or a headband, the Examiner notes that this is a statement of intended use which fails to further limit the structure of the invention, noting that Putz's necklace 20 or 820 can be worn as either a necklace or hairpiece.

Therefore, Applicant has canceled apparatus-type claims 25-29 and replaced them with method Claim 30, which recite method steps for forming a necklace and headband piece which can be worn as either a necklace or a headband, whereby the piece has a pendant with a hair grasping clasp, whereby further the clasp is located upon the pendant to permit the fragrance emitting layer to contact the skin of the user when the piece is worn as a necklace around the skin of the neck of the wearer.

For example, new Claim 30 discloses a method of providing an interchangeable fragrant decorative necklace and headband upon the neck or

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hair of a user configured to be worn either as a necklace and as a hair accessory; comprising the steps of :

- providing a decorative continuous necklace and headband piece having an elastic, stretchable continuous cord of elastic material configured to lay snugly around a neck area of a user;

- providing sufficient elasticity in said elastic, stretchable continuous cord to enable said elastic, stretchable continuous cord to expand over the head of a user and to cling to the head of a user;

- providing a pendant having at least one skin contact surface;

- attaching said pendant to said continuous cord;

- providing a thin cover layer member having a fragrance emitting material bonded thereto;

- adhering, by pressure sensitive adhesive, said thin cover layer member to said at least one skin contact surface of said pendant, whereby upon contact with skin of the user, said fragrance emitting material reacts with skin oils of the user to mute fragrance emitting from said thin cover layer member;

- wrapping said elastic, stretchable continuous cord

- providing said pendant with a hair clasp having a hinge and latch when said continuous necklace and headband piece is configured to be worn as a hair accessory contacting and wrapped around and/or through the hair of the user to form a desired hair style of the hair of the user;

- locating said hinge and latch upon said pendant so that said hinge and latch lies flat enough such that it does not protrude beyond said skin contact surface of said pendant having said thin cover layer member having said fragrance emitting material bonded thereto; so as to permit the user's skin to said skin contact surface of said pendant when said continuous necklace and headband piece is configured to be worn as a necklace.

The aforementioned elements of new Claim 30 recite more than what is recited in Putz.

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"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). Putz does not teach each and every element of Applicant's independent claim 30. Therefore, the Applicant contends that at least for the reasons provided, Applicant's claim 30 is not anticipated by Putz.

Since Putz does not anticipate Applicant's invention as recited in new claim 30, Applicant submits that claim 30 is allowable. As such, the Applicant respectfully requests reconsideration and withdrawal of the rejection of claims as being anticipated by Putz.

Applicant notes that Applicant's design patent number Des. 411,899 for a combined necklace and hair ornament was published in 1999, more than one year ago, and but Martz '899 does not describe all of the features of new Claim 30.

Applicant also notes that Applicant's earlier US Patent number 6,162,457 describes a clothing adherable thin fragrance emitting patch with a skin contact surface for the purpose of mingling the fragrance with skin oils, when applied to the skin facing side of the patch is thereby in contact with the wearer's skin but Martz '457 does not describe all of the features of new Claim 30.

#### CONCLUSION

Thus, the Applicant submits that new method Claim 30 presently pending in the application is not anticipated by Putz. Consequently, the Applicant believes that Claim 30 is in condition for allowance. Again each of the apparatus references cited by the Examiner is designed for a specific purpose. However, none of the cited references either individually or in any reasonable combination addresses the problem that the Applicant's claimed method solves. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

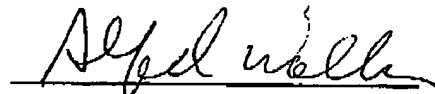
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If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Alfred Walker at (631)-361-8737, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: July 3, 2006



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CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence is being deposited by fax to 703-872-9306 on the date indicated below.

Date: Monday, July 3, 2006



Alfred M. Walker